

**APPEAL SUB (STANDARDS) COMMITTEE**

**WEDNESDAY, 25 JULY 2018**

# **NOT FOR PUBLICATION**

**By virtue of paragraphs 1 & 2 of Part I of Schedule 12A of the Local Government Act 1972.**

## **6. APPEAL PROCEDURE**

The Sub-Committee considered a report of the Town Clerk relative to the procedure that would be followed by the Sub-Committee for an appeal by Susan Pearson, a Common Councilman, against decisions of the Hearing Sub (Standards) Committee that there had been a breach of the Members' Code of Conduct and sanctions should be applied.

It was noted that as the complaint against Susan Pearson had been considered under the City Corporation's former complaints procedure, rather than the new procedure which was implemented on 19 July 2018, the appeal process would also be managed on the basis of the old procedure. Consequently, as there was no established procedure for the conduct of an appeal under the old complaints process, Members were asked to agree the procedure for hearing the appeal.

Jonathan Swift QC made a number of suggestions for consideration by the Sub-Committee including the adoption of a reasonable and fair procedure that assessed whether the decision taken by the Hearing Sub-Committee had been right rather than reasonable and the substitution of sanctions if the decision was found to be wrong; consideration of oral representations from both sides within an appropriate time period; the allocation of time for questions and right of reply; a request for written grounds for appeal and access by the Sub-Committee to relevant documentation where beneficial such as the decision letters arising from the earlier sub-committee meetings, and also to request additional information where this may assist the Sub-committee with its deliberations. The Sub-Committee AGREED that the appeal would be heard in public, but it would consider a request for holding the meeting in private if one was made. It was further AGREED that the Sub-Committee would take legal advice on the consideration of preliminaries as part of the appeal if the appellant's submission included these as part of their argument.

With reference to the report before Members, it was noted that Susan Pearson's representative (Mr Harrower) had raised several points and various issues had been addressed as preliminaries at the hearing stage. It was AGREED that if Mr Harrower wished to raise any matters at the appeal stage, he would be asked to explain why they should be considered to ensure that the Sub-Committee could focus on whether the Hearing Sub-committee's earlier decision was right.

In noting the views of the Sub-Committee, Mr Swift advised Members that he would draft the agreed procedure which would then be circulated to Members. Following some discussion regarding the timescales for requesting written grounds for appeal from Susan Pearson and a written response from the City Corporation's legal representative (Comptroller & City Solicitor's Department), it was AGREED that the next meeting of the Appeal Sub-Committee, at which the appeal would be heard, would take place on the 27 or 28 September subject to the availability of an Independent Person and room availability. All relevant parties would be advised of the agreed arrangements by the Town Clerk forthwith.

It was noted that Mr Swift would not be available to advise the Sub-Committee in due course as result of work commitments but, with the Sub-Committee's consent, a colleague from Chambers would advise the Sub-Committee at the future proceedings.

**RESOLVED:** - That –

- (i) the procedure for hearing the appeal from Susan Pearson by this Sub-Committee be approved and circulated to Members and all other relevant parties once drafted by Jonathan Swift QC (the Sub-Committee's legal adviser); and
- (ii) the appeal hearing be scheduled to take place on 27 or 28 September 2018 subject to the availability of an Independent Person and room availability.

**The meeting ended at 4.50 pm**

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Chairman

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